

REMARKS/ARGUMENTS

Claims 1-22 are present in this application. By this Amendment, Figure 5 and the specification have been amended. Reconsideration in view of the following remarks is respectfully requested.

Upon reviewing the specification and drawings, a few inadvertently repeated reference numerals were identified in FIG. 5. The amendments herein to the specification and FIG. 5 correct the repeated reference numerals. Applicant submits that no new matter has been added.

Claims 1-5, 7-9, 12, 14-16 and 18-22 were rejected under 35 U.S.C. §102(e) over U.S. Patent Publication No. 2001/0014868 to Herz et al. (The Office Action lists claims 1-5, 12-16, 21 and 22 as being rejected, but the grounds of rejection reference the claims listed above.) This rejection is respectfully traversed.

The system described in the Herz publication is a seller-driven system that endeavors to identify product pricing or offers to maximize profits based on a profile of the target shopper. An important distinction between the present invention and the Herz publication is that the present invention is rather a buyer-driven system that seeks suitable products and services for a particular user based on a user profile. As described in the specification, in a preferred application, the user profile is defined by or for that system user. In view of this distinction, the Herz system could in no way incorporate an automatic best choice service whereby relevant items are automatically implemented, as defined in step (c) of claim 1.

As recognized in the Office Action, at best, the Herz system identifies and makes offers suitable to particular shoppers. Nowhere does the Herz system even remotely appreciate a potential application where one or more of those offers is automatically accepted. In this context, the Office Action provides that “[i]nforming the shopper automatically of the best offers

based upon his profile and the offers stored in a database reads upon the recited limitation.”

Applicant respectfully submits, however, that this statement is entirely inaccurate. The automatic best choice service of the invention is an important feature enabling the relevant items to be automatically implemented (i.e., the best offer(s) for that particular user is automatically accepted). In each instance in the Herz patent, in contrast, the shopper must make a decision to accept an offer. Additionally, a determination of a "best" offer will likely be different depending on from whose perspective, i.e., buyer or seller, it is viewed. Thus, the presentation of "best offers" in the Herz system may not even identify the offer that would be automatically accepted with the automatic best choice service defined in the present application claims.

Applicant thus respectfully submits that the Herz publication lacks at least step (c) of claim 1. Independent claims 14, 21 and 22 define related subject matter.

For at least these reasons, Applicant thus respectfully submits that the rejection is misplaced.

With regard to the dependent claims, Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim.

Reconsideration and withdrawal of the rejection are respectfully requested.

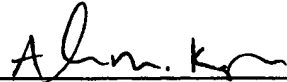
In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

• WHITEHEAD
Appl. No. 09/863,010
May 31, 2005

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
Alan M. Kagen
Reg. No. 36,178

AMK:jls
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Fig. 5. This sheet, which includes Fig. 5, replaces the original sheet including Fig. 5. In Figure 5, inadvertently repeated reference numerals have been eliminated.

Attachment: Replacement Sheet(s)
Annotated Sheet Showing Changes

Fig. 5

